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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/897,165	06/29/2001	Jim Hochberg	4024-4006	1448
27123	7590	07/26/2005	EXAMINER	
MORGAN & FINNEGAN, L.L.P. 3 WORLD FINANCIAL CENTER NEW YORK, NY 10281-2101			PHAN, HANH	
			ART UNIT	PAPER NUMBER
			2638	

DATE MAILED: 07/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/897,165	Applicant(s) HOCHBERG ET AL.	
	Examiner Hanh Phan	Art Unit 2638	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 June 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-49 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-49 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office Action is responsive to the Amendment filed on 03/08/2005.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 11-15, 19-22, 25, 26, 31-45 and 49 are rejected under 35 U.S.C. 102(e) as being anticipated by Maddocks et al (US Patent No. 6,483,616).

Regarding claims 1, 11, 19, 22, 25, 26, 31, 39-45 and 49, referring to Figure 1, Maddocks discloses in an optical transceiver (i.e., switching unit 1, Fig. 1) having at least two optical receiving channels and at least two laser transmitters (i.e., As indicated in Fig. 1, switching unit 1 having a number of separate optical channels at different optical carrier wavelengths generated by switch 3, and each of which carries voice and/or data traffic , and a low power supervisory channel signal is generated by at a supervisory insert unit 9, the supervisory signal having a different carrier wavelength, and the two optical receiving channels are the optical amplifier 18 for extracting the traffic channels and extract unit 10 for extracting the supervisory channel, see col. 2, lines 14-67 and col. 3, lines 1-43), a method of minimizing a risk of damage to human

tissue, caused by an exposure to an amount of laser radiation in excess of a maximum permissible exposure level, the method comprising:

monitoring at least one of the at least two optical receiving channels for receipt of an optical data signal (i.e., the optical amplifier 18 and laser control 22 monitor the traffic signals and the supervisory extract 17 and laser control 22 monitor the supervisory signal, col. 2, lines 63-67 and col. 3, lines 1-43);

determining, using a controller, if a received optical data signal satisfies at least one expected activity criterion (i.e., the optical amplifier 18 and laser control 22 and the supervisory extract 17 monitor the supervisory signal and the traffic signals to determine the loss of the signals, col. 2, lines 63-67 and col. 3, lines 1-43); and

if the received optical data signal does not satisfy the at least one expected activity criterion, determining that an eye safety fault condition exists and causing a shut down of at least one the at least two laser transmitters (col. 2, lines 63-67 and col. 3, lines 1-43).

Regarding claims 12-15, 20, 21 and 32-38, Maddock teaches further comprises logically grouping the at least two laser transmitters and partitioning the multiple lasers (i.e., optical coupler 30 grouping the optical traffic signals and optical supervisory signal and optical coupler 31 separating the optical traffic signals and optical supervisory signal) .

4. Claims 1, 11-15, 19-22, 25, 26, 31-45 and 49 are rejected under 35 U.S.C. 102(e) as being anticipated by Czarnocha et al (US Patent No. 6,504,630).

Regarding claims 1, 11, 19, 22, 25, 26, 31, 39-45 and 49, referring to Figure 1, Czarnocha discloses in an optical transceiver (i.e., network element 110, Fig. 1) having at least two optical receiving channels and at least two laser transmitters (i.e., As indicated in Fig. 1, network element 110 having a number of optical traffic signals I1 and a low power supervisory channel signal is generated by at a supervisory unit 115, and the two optical receiving channels are the optical amplifier 112 for extracting the traffic channels and SUPV unit 115 for extracting the supervisory channel, see from col. 3, line 60 to col. 5, line 59), a method of minimizing a risk of damage to human tissue, caused by an exposure to an amount of laser radiation in excess of a maximum permissible exposure level, the method comprising:

- monitoring at least one of the at least two optical receiving channels for receipt of an optical data signal (i.e., the optical amplifier 115, controller 116 and SUPV 115 monitor the traffic signals and the supervisory signal);

- determining, using a controller, if a received optical data signal satisfies at least one expected activity criterion (i.e., the optical amplifier 115, controller 116 and SUPV 115 monitor the traffic signals and the supervisory signal); and

- if the received optical data signal does not satisfy the at least one expected activity criterion, determining that an eye safety fault condition exists and causing a shut down of at least one the at least two laser transmitters (see from col. 3, line 60 to col. 5, line 59).

Regarding claims 12-15, 20, 21 and 32-38, Czarnocha teaches further comprises logically grouping the at least two laser transmitters and partitioning the multiple lasers

(Fig. 1).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2-10, 16-18, 23, 24, 27-30, and 46-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maddocks et al (US Patent No. 6,483,616) in view of Koike et al (US Patent No. 6,724,993).

Regarding claims 2-7, 16-18, 23, 24, and 27-30, Maddock differs from claims 2-7, 16-18, 23, 24, and 27-30 in that fails to specifically teach comparing the optical data signal to an expected signal. However, Koike in US Patent No. 6,724,993 teaches comparing the optical data signal to an expected signal (see from col. 3, line 45 to col. 5, line 61 and see Fig. 1). Therefore, it would have been obvious to one having skill in the art at the time the invention was made to incorporate the comparing the optical data signal to an expected signal as taught by Koike in the system of Maddock. One of ordinary skill in the art would have been motivated to do this since Koike suggests from col. 3, line 45 to col. 5 line 61 that using such the comparing the optical data signal to an expected signal have advantage of allowing providing a device does not have a harmful effect on the human eye when an optical fiber is disconnected from the apparatus and is able to determine easily when the fiber has been reconnected.

Regarding claims 8-10 and 46-48, the combination of Maddock and Koike teaches determining that the eye safety fault condition has been corrected, and automatically turning on at least one shut down transmitter (col. 2 of Maddock, lines 63-67 and col. 3, lines 1-43 and from col. 3 of Koike, line 45 to col. 5, line 61).

7. Claims 2-10, 16-18, 23, 24, 27-30, and 46-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Czarnocha et al (US Patent No. 6,504,630) in view of Koike et al (US Patent No. 6,724,993).

Regarding claims 2-7, 16-18, 23, 24, and 27-30, Czarnocha differs from claims 2-7, 16-18, 23, 24, and 27-30 in that fails to specifically teach comparing the optical data signal to an expected signal. However, Koike in US Patent No. 6,724,993 teaches comparing the optical data signal to an expected signal (see from col. 3, line 45 to col. 5, line 61 and see Fig. 1). Therefore, it would have been obvious to one having skill in the art at the time the invention was made to incorporate the comparing the optical data signal to an expected signal as taught by Koike in the system of Czarnocha. One of ordinary skill in the art would have been motivated to do this since Koike suggests from col. 3, line 45 to col. 5 line 61 that using such the comparing the optical data signal to an expected signal have advantage of allowing providing a device does not have a harmful effect on the human eye when an optical fiber is disconnected from the apparatus and is able to determine easily when the fiber has been reconnected.

Regarding claims 8-10 and 46-48, the combination of Czarnocha and Koike teaches determining that the eye safety fault condition has been corrected, and

automatically turning on at least one shut down transmitter (col. 2 of Maddock, lines 63-67 and col. 3, lines 1-43 and from col. 3 of Koike, line 45 to col. 5, line 61).

Response to Arguments

8. Applicant's arguments with respect to claims 1-49 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh Phan whose telephone number is (571)272-3035.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kenneth Vanderpuye, can be reached on (571)272-3078. The fax phone number for the organization where this application or proceeding is assigned is (703)872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-4700.



**HANH PHAN
PRIMARY EXAMINER**